

IC 29-3-11

Chapter 11. Liability of Guardians and Persons Acting Under Protective Orders

IC 29-3-11-1

Protection for persons dealing in good faith with guardian or person acting under protective order; scope of protection

Sec. 1. (a) A person who in good faith deals with a guardian or person acting under a protective order is:

- (1) protected as if the guardian or person acting under a protective order properly exercised the power; and
- (2) not required to inquire into the existence of the power or the propriety of its exercise except as to restrictions endorsed on the letters.

(b) A person who deals with a guardian or person acting under a protective order in good faith is not bound to see to the proper application of amounts paid or property delivered to the guardian or person.

(c) The protection expressed in this section:

- (1) extends to any procedural irregularity or jurisdictional defect occurring in proceedings under this article; and
- (2) is not a substitution for but is in addition to any other applicable law, including the laws relating to commercial transactions and to simplifying transfers of securities by fiduciaries.

As added by P.L.169-1988, SEC.1.

IC 29-3-11-2

Contracts entered into in good faith; personal liability of guardian; liability for acts or omissions; proceeding to determine liability

Sec. 2. (a) Unless otherwise provided in the contract, a guardian or person acting under a protective order is not personally liable on a contract entered into in good faith under the order, unless that person fails to reveal that person's representative capacity and identify that person's capacity in the contract.

(b) Subject to subsection (a), a guardian or person acting under a protective order is not personally liable to the protected person or others for any act or omission in good faith or for any act or omission of the protected person or others acting on behalf of the protected person.

(c) The guardian or person acting under a protective order is personally liable to the protected person for acts or omissions in the course of the administration of the trust of the guardian or person acting under a protective order only for a breach of duty to the protected person.

(d) Any question of liability of the guardian or person acting under a protective order personally to the protected person may be determined in a proceeding for accounting, surcharge, indemnification, or other appropriate proceeding or action.

As added by P.L.169-1988, SEC.1.

IC 29-3-11-3

Actions between third party and protected person; service of process; suits against guardian or person acting under protective order; substitution of parties

Sec. 3. (a) If a guardian has been appointed, all actions between third persons and the protected person seeking to charge or benefit the protected person or the protected person's property shall be prosecuted by or against the guardian or person acting under a protective order to represent the interests of the protected person in the action. All process relating to that action shall be served on the guardian.

(b) In the case of a claim against the guardian or person acting under a protective order personally, the guardian or person acting under the protective order may be sued both as guardian or person acting under the protective order and in the personal capacity of the guardian or person acting under the protective order in the same action.

(c) If an action was commenced by or against the protected person before the appointment of a guardian for the protected person, the guardian upon appointment shall be substituted as a party for the protected person. If the appointment of the guardian is terminated, the guardian's successor shall be substituted as a party to the action. If the protected person dies, the protected person's personal representative shall be substituted. If the protected person is no longer a minor or incapacitated person, the protected person shall be substituted.

As added by P.L.169-1988, SEC.1. Amended by P.L.33-1989, SEC.79.

IC 29-3-11-4

Civil immunity of a guardian

Sec. 4. Except as provided in section 2 of this chapter and except for gross misconduct, a guardian appointed under this article is immune from any civil liability resulting from the guardian's performance.

As added by P.L.41-2004, SEC.4.